

## **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE AUTHORS GUILD, et al.,

Plaintiffs,

Master File No.

-vs-

05 CV 8136-DC

GOOGLE, INC.,

Defendant.

\_\_\_\_\_ /

The Videotaped Deposition of PAUL N. COURANT,  
Ph.D., Taken at 503 Thompson Street,  
5021 Fleming Administration Building,  
Ann Arbor, Michigan,  
Commencing at 2:00 p.m.,  
Monday, April 23, 2012,  
Before Jennifer L. Ward, CSR-3717.

1 there.

2 Q. Great. So -- thank you. You mentioned  
3 that the digital files are used by people with print  
4 disabilities. Are those people limited to the  
5 University of Michigan community, or anyone?

6 A. With respect to works that are from the  
7 University of Michigan files, yes, I believe it is  
8 limited to just the University of Michigan certified  
9 users.

10 Q. And what is a certified user? What makes  
11 someone a certified user?

12 A. There's an office in the university that  
13 determines whether people have print disabilities, and  
14 then of course the person has to be a member of the  
15 university community.

16 Q. With respect to digital files of books that  
17 are in copyright and that were digitized without the  
18 authorization of the rights holder, to whom are those  
19 works or those digital files available for search  
20 purposes?

21 MR. PETERSEN: Objection to form.

22 BY MR. BONI:

23 Q. You said you made them available for search.  
24 I'm asking available to whom?

25 A. So to search for the -- search text as

1 where we do have authorization from the rights holder.

2 BY MR. BONI:

3 Q. Right. So let me limit it to those works  
4 where the rights holder did not give authorization.

5 A. So let me just try to see if I can get this  
6 set winnowed down to what it is. These are works that  
7 are in copyright, digitized by Google, a copy has come  
8 to the University of Michigan, and you're asking who  
9 can read the text of those works?

10 Q. Correct.

11 A. Right.

12 Q. You mentioned those at the University of  
13 Michigan with print disabilities and then staff for  
14 technical and computer purposes --

15 A. Yes.

16 Q. -- and I'm asking you whether there is  
17 anyone else.

18 A. There are some staff who are not staff at  
19 the University of Michigan associated with the mirror  
20 site at Indiana, and that's all I can think of.

21 Q. Okay. Do you know whether any research  
22 has been conducted on the digital files which -- where  
23 the research does not involve reading the text of the  
24 books?

25 MR. PETERSEN: Objection to form.

1           A.       She's the Chief Information Officer.

2           Q.       All right, okay. Chief information, CIO,  
3 all right. Who replicated the digital works and  
4 associated metadata to the active mirror site at IU's  
5 Indianapolis campus?

6                   MR. PETERSEN: Objection to form.

7                   THE WITNESS: That work would have  
8 been done under the general direction of John Wilkin  
9 and his counterpoints at Indiana -- counterparts at  
10 Indiana.

11 BY MR. BONI:

12           Q.       Okay. On page 19 in paragraph 67, it's  
13 right in the middle of the page, it says in the  
14 second sentence, Defendants also admit that the  
15 Hathi Trust Service preserves and secures books that  
16 are in copyright, published, and commercially  
17 available. Do you see that language, Dr. Courant?

18           A.       I do.

19           Q.       In what way does Hathi Trust preserve the  
20 books referenced here?

21                   MR. PETERSEN: Objection to form.

22                   THE WITNESS: The Hathi Trust is an  
23 operation of the library and has a time scale for  
24 preserving its assets that extends into the indefinite  
25 future.

1 BY MR. BONI:

2 Q. What are its assets?

3 A. Its holdings, copies of works. Assets may  
4 not have been the best word, but copies of works. And  
5 works are subject to -- print works are subject to all  
6 manner of risk of deterioration and destruction over  
7 time, and so the sense in which these works are  
8 preserved is that we would intend to keep a copy, as I  
9 said, into the indefinite future against the  
10 possibility that the -- that other copies would  
11 disappear.

12 MS. DURIE: Can you do me a favor?  
13 Can I just get you to move the bottle to one side? The  
14 videographer was just saying it was blocking.

15 THE WITNESS: Oh, sure.

16 MS. DURIE: Thanks.

17 BY MR. BONI:

18 Q. Let me ask you to turn to page 21, paragraph  
19 78.

20 A. I'm there.

21 Q. There is a block quote there. It appears to  
22 be a statement from Michigan Library. And it states,  
23 this tells us that our pilot process is flawed,  
24 referring to the potential orphan works. Can you tell  
25 me what that -- what is meant by the pilot process

1     that?

2           A.     I thought it was an extremely interesting  
3     and positive development.

4           Q.     Why was that?

5           A.     So really a number of reasons. We had been  
6     digitizing our collections ourselves at the rate of  
7     about 10,000 volumes a year give or take, and at that  
8     rate it was going to take 900 years or so to get the  
9     job done. And in fact, it would have taken longer  
10    because we're still acquiring works.

11                   And so suddenly it became possible  
12    to imagine digitizing close to the whole -- the whole  
13    library, and that provided in turn a number of benefits  
14    that struck me then and strike me now as being very,  
15    very important. One, which is really huge, is this  
16    notion of search that I talked about earlier. Having  
17    the full text available for search of the works in the  
18    library allows people, scholars, students, faculty, to  
19    find works that have subject matter that might not be  
20    apparent until the old card catalogs.

21                   The old catalog would give you three  
22    entries, and if it turned out there was something else  
23    important that was number four, it's not there. But if  
24    it turns out that that 4th or 5th or 6th use has words  
25    that are characteristic, you can find them in the works

1 in the library and then come to the library and use  
2 them.

3 The second enormous advantage has to  
4 do with preservation. Many works in the library,  
5 millions certainly, several millions, were printed on  
6 acid paper, which means that they have within them the  
7 seeds of their own -- their own destruction. It's a  
8 phenomenon you will have noticed. You know, from time  
9 to time you take an old paperback especially or an old  
10 newspaper off the shelf and it just turns into  
11 cornflakes and then dust in your hands. That's what  
12 happens to works on acid paper, and in time it happens  
13 to all of them.

14 And by -- knowing that there are  
15 millions of such works, identifying them one by one is  
16 sort of inconceivably difficult. You have to go to the  
17 shelves. I mean it just -- you know, millions or --  
18 that's a big number, and, you know, I just can't  
19 imagine the amount of effort that would be involved in  
20 finding them one by one.

21 If we go through this process of  
22 digitizing essentially the whole collection we then  
23 have a preservation copy of works that would otherwise  
24 disappear without replacement. These works now will in  
25 due course disappear, in due time, but we will be able

1 BY MS. DURIE:

2 Q. I'm sorry, I apologize. Is it correct that  
3 the University of Michigan has used copies of --  
4 digital copies of books that were scanned by Google to  
5 create a searchable index?

6 A. As part of this project?

7 Q. Yes.

8 A. Yes.

9 Q. And what was the reason for doing that?

10 A. I think I described it earlier, that it  
11 enables users to find things reliably and easily that  
12 they would otherwise not be able to find.

13 Q. You also mentioned the display, using the  
14 work to allow people with print disabilities to gain  
15 access to works that they otherwise would not be able  
16 to read. Has the University of Michigan made any  
17 actual displays of works in its collection of any of  
18 the works as part of the search -- strike that. That  
19 was terrible question.

20 In connection with this  
21 searchable index, does the University of Michigan allow  
22 users to read works that are returned from that  
23 searchable index if those works are deemed to be in  
24 copyright?

25 MR. PETERSEN: So we're off the

1 subject of students with print disabilities?

2 MS. DURIE: Correct.

3 MR. PETERSEN: This is a  
4 different -- okay.

5 THE WITNESS: In cases where the  
6 rights holder has authorized it, yes.

7 BY MS. DURIE:

8 Q. To the extent that the rights holder has not  
9 authorized it, does the University of Michigan allow  
10 individuals to see the complete copies of works that  
11 are returned as search results if those works are in  
12 copyright?

13 MR. PETERSEN: And you're excluding  
14 students with print disabilities?

15 BY MS. DURIE:

16 Q. Excluding students with print disabilities.

17 A. If the works are either in copyright or not  
18 known to be not in copyright, no.

19 Q. Has the University of Michigan --

20 A. Did I get that grammar right?

21 Q. Yeah.

22 A. I believe so.

23 Q. Yes. Has the University of Michigan put  
24 security measures in place to protect all of the  
25 various digital copies that exist of these works?

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1           A.     Again, we're talking about this set of works  
2     that we do not know to be in the public domain?

3           Q.     Correct.

4           A.     Yes.

5           Q.     Are you aware of any breaches that have  
6     taken place that have allowed those works to become  
7     part of the public domain --

8           A.     No.

9           Q.     -- security breaches? Does the University  
10    of Michigan have a budget for the acquisition of new  
11    works?

12          A.     Yes.

13          Q.     Is that budget broken down in some fashion  
14    departmentally or --

15          A.     It's -- so actually I should back up. The  
16    University of Michigan Library has such a budget.  
17    Several other libraries have budgets. Departmental  
18    libraries have budgets. So there are probably dozens  
19    of entities within the University of Michigan who  
20    have -- make budgeted expenditures on library  
21    acquisitions, and by far the largest of those entities,  
22    but only one of them, is the one of which I am the  
23    dean.

24          Q.     With respect to the entity of which you are  
25    the dean, what is the acquisition budget for that

1 entity?

2 A. Approximately 20 -- a little bit under  
3 20 million dollars a year.

4 Q. Has that budget been affected in any way by  
5 the Google Library Project? In other words, has that,  
6 for example, caused your budget to go down?

7 MR. PETERSEN: When you say budget,  
8 for acquisitions?

9 BY MS. DURIE:

10 Q. For acquisitions, acquisitions.

11 A. Certainly not in any direct way. Indirectly  
12 the Google Library Project has enhanced the reputation  
13 of the library, therefore possibly improved our  
14 political ability to get resources from the provost.

15 Q. Okay. But it is not then the case I take it  
16 that the fact that you have digital copies of the works  
17 in your collection has itself caused you to start  
18 spending less money on book acquisition?

19 A. No.

20 Q. Have there ever been circumstances where the  
21 University of Michigan has bought additional paper  
22 copies of books that it has in digital form as a result  
23 of its participation in the Google Library Project?

24 A. So we have a dangling modifier here. So we  
25 have it in digital form as a result of the Google

1 connection with search functionality?

2 BY MS. DURIE:

3 Q. Any. Just in general. Presumably yes,  
4 right?

5 A. Yes.

6 Q. Okay. And has the University of Michigan  
7 ever paid a rights holder for permission to include a  
8 work simply in that index?

9 A. Not to my knowledge.

10 Q. Okay. Now let me take indices that  
11 encompass the full text of the work. Has the  
12 University of Michigan ever paid a rights holder for  
13 permission to have that rights holder's work included  
14 in the index where it was an index of the full text of  
15 works?

16 A. Again --

17 MR. BONI: Object to form.

18 THE WITNESS: I had no knowledge of  
19 such circumstances.

20 BY MS. DURIE:

21 Q. Okay.

22 A. So no, as far as I know.

23 Q. Now, you also mentioned earlier in your  
24 testimony the importance of being able to maintain  
25 duplicate copies of works as part of a digital archive;